IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

Crl.MC.No. 4576 of 2003()

CC.578/1998 of JUDL. MAGISTRATE OF FIRST CLASS COURT-III, TRIVANDRUM

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PETITIONER: 3RD ACCUSED

PREM V.MENON, T.C.11/1558, YMR
JUNCTION, NANTHANCODE, TRIVANDRUM.

BY ADV. SRI.SASTHAMANGALAM S. AJITHKUMAR

RESPONDENTS: COMPLAINANT AND STATE

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1. FREEDA CHRISTOPHER, T.C.11/1867,
SHALEM VEEDU, NANTHANCODE, TRIVANDRUM.

2. THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.K.P.JAYACHANDRAN
SRI.DILIP MOHAN
SRI.K.P.SREEKUMAR (KADAYANICKADU)
SRI.P.VIJAYABHANU FOR R1

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 19/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.M.C.No.4576 of 2003

Dated this the 19th day of July, 2007

O R D E R

The petitioner is the third accused in C.C.No.578/1998, in the file of the JFCM-III, Trivandrum in the protest complaint filed by the husband of the first respondent alleging offences under Sections 143, 147, 148, 149, 291, 452, 427 and 380 IPC. It is submitted that the court has taken cognizance of the offences under Sections 427, 452, 380 read with Section 34 IPC.

2. The case of the petitioner is that the he has been falsely implicated and that the police after investigation has submitted a refer report with respect to the same allegations and hence the protest complaint filed is liable to be quashed. Annexure A is the refer report and Annexure B is the copy of the protest complaint. The allegation is that on 26.1.1996 at about 11.30 p.m., the accused, 8 in number, trespassed into the house of the defacto complainant and destroyed roof tiles and removed house hold articles valued at Rs.7,800/-. It is submitted that the second accused was the housemaid attending the deceased sister

of the defacto complainant who was afflicted with cancer and consequent on the death of the sister of the defacto complainant the second accused was relieved of her employment and on account of the above grouse she and the rest of the accused including the petitioner herein committed the above offences.

3. It is also submitted by the counsel for the respondent that a civil suit is pending and that the court has issued an order of interim injunction against the first and second accused from entering into the property. I find that what has to be decide is the genuineness of the facts alleged which can be done only after trial. Just the fact that the police have filed a refer report is no reason to quash the private complaint filed which has been taken cognizance by the court below. I find that this is not a fit case to invoke Section 482 Crl.P.C.

The Crl.M.C. is dismissed.

K.R.UDAYABHANU,
JUDGE

csl

K.R.UDAYABHANU, J

Crl.A.No.216/2001

JUDGMENT

17th July 2007